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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,241	11/16/2005	Guldo Vendel	102132-27	3633
27388 7590 01/03/2007 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER KHAN, IBRAHIM A	
			ART UNIT 2617	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/03/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/538,241

Applicant(s)

VENDEL ET AL.

Examiner

Ibrahim A. Khan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06/07/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 21-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 06/07/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

### *Information Disclosure Statement*

2. The information disclosure statements submitted on November 05, 2004 has been considered by the Examiner and made of record in the application file.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21- 26 and 28-32, are rejected under 35 U.S.C. 102(e) as being anticipated by **Masseroni et al (EP 1257096 A3)**.

Consider **claim 21, Masseroni et al.** clearly disclose a method for detecting multiuser behavior on an aerial interface in GPRS and EGPRS mobile radio systems (*abstract, page 8 paragraph 0036, figure 14,15*), comprising the steps of acquiring and evaluating during a transmission of subscriber data on an aerial interface, additional information contained in subscriber data by a device on a network side and/or a subscriber side, both in the uplink and the downlink (see *figure 14-24, page 8 paragraph 0036 and 0037, page 9 paragraph 0038* where Masseroni et al describe that the establishment of a TBF uplink connection where the network requires to know the number of blocks that a MS mobile intends to transmit. In addition, in the download TBF a buffer is allocated to contain the RLC/MAC blocks to be sent).

Consider **claim 29, Masseroni et al.** clearly disclose a device for detecting multiuser behavior on the aerial interface in GPRS and EGPRS mobile radio systems (*abstract, page 8 paragraph 0036, figure 14,15*), wherein during a transmission of subscriber data on the aerial interface, additional information contained in the subscriber data are acquired and evaluated by at least one device on the network side and/or the subscriber side, both in the uplink and the downlink and wherein the at least one device for acquiring additional information is provided on the network side and/or on the subscriber side in the mobile radio network, which information is included in the subscriber data transmitted on the aerial interface in the downlink and uplink. (see *figure 14-24, page 8 paragraph 0036 and 0037, page 9 paragraph 0038* where Masseroni et al describe that the establishment of a TBF uplink connection where the network requires to know the number of blocks that a MS mobile intends to transmit. In

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addition, in the download TBF a buffer is allocated to contain the RLC/MAC blocks to be sent).

Consider **claim 22** and as applied to claim 21 above; **Masseroni et al.** clearly disclose the steps of comparing at the beginning of a Temporary Bit Flow (TBF) the number of the used Radio Link Control (RLC) blocks with an actually available and hence usable number of RLC blocks (*pages 14 paragraph 0064-0067, page 15,16 paragraph 0068-0071*) and identifying a number of parallel subscribers in used timeslots based on the additional information contained in the RLC blocks (*see page 9 paragraph 0038* where Masseroni et al discloses that the network assigns each TBF connection a TFI (temporary flow identity) and that the MS assume that the TFI value is unique among TBF competitors in each direction, uplink or downlink. Masseroni further discloses that a RLC data block is identified to the TBF to which it is associated through its own filed and another field to indicate uplink or downlink direction of the block. Note that since the TFI value is unique it can be used to determine the number of current parallel subscribers in the timeslots).

Consider **claim 23** and as applied to claim 21 above, **Masseroni et al.** clearly disclose the step of evaluating parameters Uplink Status Flag (USF) and/or Temporary Flow Identifier (TFI) as additional information (*page 9, paragraph 0038*).

Consider **claim 24** and as applied to claim 23 above, **Masseroni et al.** disclose the step of determining for the duration of an uplink TBF, how many USF's are allocated by

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the network side (*see figure 15, 17 and 22b, pages 14-15 paragraph 0068, page 16 paragraph 0072-0073*)

Consider **claim 25** and as applied to claim 23 above, **Masseroni et al.** disclose the step of determining for the duration of a downlink TBF, how many USF's are allocated by the network side (*see figure 15, 17 and 22b 24a, pages 14-15 paragraph 0068, page 16 paragraph 0072-0073, page 21 paragraph 0093-0094* Note that since USF are sent on the downlink RLC blocks, the USF is considered to be determine on the duration of the downlink TBF).

Consider **claim 26** and as applied to claim 23 above, **Masseroni et al.** clearly disclose the step of identifying the USF's and/or TFI's and for each TBF and a combination of all TBF's which are part of the transfer (*figure 15-17, page 15 and 16, paragraph 0069-71*)

Consider **claim 28** and as applied to claim 21 above, **Masseroni et al.** clearly disclose the step of evaluating for the entire lifetime of the respective uplink TBF and/or downlink TBF, the RLC data as well as the RLC/MAC control blocks for all TBF's in existence at that time and in all timeslots allocated to the respective TBF, and determining based on these data if a multiuser operation has occurred at the time of the data transmission (*see figure 15- 17, 20a, 20b, 22b, 23, 24a 25, pages 14-15 paragraph 0068, page 16 paragraph 0072-0073, page 19 paragraph 0084-0086, page 21 paragraph 0093-0094*) .

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Consider **claim 30** and as applied to claim 29, **Masseroni et al.** clearly disclose wherein the at least one device is provided in the Packet Control Unit PCU (*see figure 13 physical layer, figure 14 PCU frame, page 14 paragraph 64-66, page 16 paragraph 0074*)

Consider **claim 31** and as applied to claim 29, **Masseroni et al.** disclose the at least one device comprises a subscriber-side measurement system, which cooperates with or is integrated in a mobile radio terminal (*see figure 15-17, pages 14-15 paragraph 0068* where Masseroni et al. show that the TBF Manager comprises buffers that stores the current number of RLC blocks)

Consider **claim 32** and as applied to claim 29 above, **Masseroni et al.** clearly disclose wherein the additional information comprises the parameters USF and/or TFI (*page 9, paragraph 0038*).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Masseroni et al (EP 1257096 A3)** in view of **Lintulampi et al. (US 6747962 b2)**.



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Consider **claim 27** and as applied to claim 22 Masseroni et al. disclose the step of determining the usage of the timeslots for the RLC blocks by counting the data frames. Masseroni et al however, does not specifically disclose that this is done during static allocation.

In the same field of endeavor, Lintulampi et al. disclose RLC blocks sent from mobile station to the network. During this operation the network acknowledges the receipt of every RLC block and thus knows the number of data frames that were used. Therefore, it is apparent that the network can determine the usage of the timeslots (*figure 4, column 8 line 65- column 9 line 45*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Lintulampi et al. in the teachings of Masseroni et al. to efficiently manage radio resources in the communication network (*abstract, column 8 line 65- column 9 line 45*).

### Conclusion

5. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

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Randolph Building

401 Dulany Street

Alexandria, VA 22314

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Ibrahim A. Khan whose telephone number is (571) 270-1110. The Examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300..

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

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*Ibrahim A. Khan*

I.A.K./iak

12/07/2006

  
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